

1 **ARISTA'S FIRST AMENDED PROPOSED VERDICT FORM**
2 **November 16, 2016**

3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**

6 **CISCO SYSTEMS, INC.,**

7 **Case No. 5:14-cv-05344-BLF (NC)**

8 **Plaintiff,**

9 **VERDICT FORM**

10 **v.**

11 **ARISTA NETWORKS, INC.,**

12 **Defendant.**

13 When answering the following questions and filling out this Verdict Form, please follow
14 the directions provided throughout the form. Your answer to each question must be unanimous.
15 Some of the questions contain legal terms that are defined and explained in detail in the Jury
16 Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of
17 any legal term that appears in the questions below.¹

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1 ¹ Source: N.D. Cal. Model Patent Jury Instruction C.3 (July 16, 2015).

1 **YOUR ANSWERS MUST BE UNANIMOUS**

2 **Cisco's Claim for Copyright Infringement**

3 1. Has Cisco proven that Arista copied protected expression from any of Cisco's registered
4 works?

5 Yes No

6 (For Cisco) (For Arista)

7 _____

8 **IF YOU ANSWERED "NO" TO QUESTION 1, PLEASE GO TO QUESTION 10.**

9 **IF YOU ANSWERED "YES" TO QUESTION 1, PLEASE CONTINUE TO QUESTION 2.**

10 2. Has Cisco proven that any of Arista's operating systems that you find contain copied
11 protected expression are virtually identical to any of Cisco's registered operating systems as a
12 whole?

13 Yes No

14 (For Cisco) (For Arista)

15 _____

16 **IF YOU ANSWERED "YES" TO QUESTION 2, PLEASE MARK ON EXHIBIT A TO
17 THIS VERDICT FORM EACH ITEM OF CISCO'S OPERATING SYSTEMS THAT
18 YOU FIND IS PROTECTED EXPRESSION THAT ARISTA COPIED.**

19 3. Has Cisco proven that any of Arista's technical documentation that you find contain copied
20 protected expression is virtually identical to any of Cisco's registered technical
21 documentation?

22 Yes No

23 (For Cisco) (For Arista)

24 _____

25 **IF YOU ANSWERED "YES" TO QUESTION 2 PLEASE CONTINUE TO QUESTION 4,
26 OTHERWISE PLEASE GO TO QUESTION 6.**

Arista's Fair Use Defense

4. Has Arista proven that Arista's use of the items that you found were infringed in Exhibit A was "fair use"?

(For Arista) (For Cisco)

— — — — —

Arista's Copyright Misuse Defense

5. Has Arista proven that Cisco misused its copyrights?

(For Arista) (For Cisco)

IF YOU ANSWERED “YES” TO EITHER QUESTION 4 OR QUESTION 5, PLEASE GO TO QUESTION 10, OTHERWISE PLEASE CONTINUE TO QUESTION 6.

Cisco's Claim for Copyright Damages

6. Has Cisco proven that it lost profits as a result of the infringement?

(For Cisco) (For Arista)

IF YOU ANSWERED “NO” TO QUESTION 6, PLEASE GO TO QUESTION 8.

IF YOU ANSWERED “YES” TO QUESTION 6, PLEASE CONTINUE TO QUESTION 7.

7. What amount of lost profits do you award to Cisco for Arista's infringement of Cisco's copyright?

\$

1 8. Has Cisco proven that Arista earned profits as a result of the infringement?

2 Yes No

3 (For Cisco) (For Arista)

4 _____

5 **IF YOU ANSWERED “NO” TO QUESTION 8, PLEASE GO TO QUESTION 10.**

6 **IF YOU ANSWERED “YES” TO QUESTION 8, PLEASE CONTINUE TO QUESTION 9.**

7 9. What amount of Arista’s profits do you award to Cisco for Arista’s infringement of Cisco’s
8 copyright that you did not already award in Question 7 as lost profits?

10 \$ _____

11 **Cisco’s Claim for Patent Infringement**

12 13. Has Cisco proven that Arista infringed claims 1 and 14 of the ’526 patent?

14 Yes No

15 (For Cisco) (For Arista)

16 a. Claim 1 _____

17 b. Claim 14 _____

18 19 **IF YOU ANSWERED “NO” IN QUESTION 10 FOR BOTH CLAIMS OF THE ’526
20 PATENT, PLEASE GO TO THE END OF THIS VERDICT FORM AND SIGN AND
DATE IT.**

21 **IF YOU ANSWERED “YES” IN QUESTION 10 FOR ANY CLAIM OF THE ’526
22 PATENT, PLEASE CONTINUE TO QUESTION 11.**

23 11. What amount of damages do you award Cisco for Arista’s patent infringement?

24 \$ _____

25 26 27 **QUESTION 12 IS ON THE NEXT PAGE.**

12. Has Cisco proven that it is highly probable that from an objective point of view the defenses put forth by Arista failed to raise any substantial question with regard to infringement, validity, or enforceability of the patent claim?

**IF YOU ANSWERED "NO" TO QUESTION 12, PLEASE GO TO THE END OF THIS
VERDICT FORM AND SIGN AND DATE IT.**

IF YOU ANSWERED “YES” TO QUESTION 12, PLEASE ANSWER QUESTION 13.

13. Has Cisco proven that Arista willfully infringed the '526 patent through the sale of EOS+?

PLEASE SIGN AND DATE BELOW.

Foreperson

Date: _____

1 **Exhibit A**

2 **PLEASE MARK EACH ITEM THAT YOU FIND TO BE PROTECTED AND COPIED**
3 **BY ARISTA.**

4 **1. CLI Commands**

5 aaa accounting _____
6 aaa authentication login _____
7 aaa authorization config-commands _____
8 aaa authorization console _____
9 aaa group server radius _____
10

11 * * *

12 [Final list to be determined after analytic dissection]

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1
2 **2. Modes & Prompts**
3

4 User EXEC _____
5

6 > _____
7

8 Privileged EXEC _____
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10 # _____
11

12 Global Configuration _____
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14 # _____
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16 * * *
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18 [Final list to be determined after analytic dissection]
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3. Hierarchies

aaa

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bgp

—

clear

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dot1x

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ip

* * *

[Final list to be determined after analytic dissection]

4. CLI Command Responses

Switch(config)#help

Help may be requested at any point in a command by entering a question mark '?'. If nothing matches, the help list will be empty and you must backup until entering a '?' shows the available options.

Two styles of help are provided:

1. Full help is available when you are ready to enter a command argument (e.g. 'show ?') and describes each possible argument
2. Partial help is provided when an abbreviated argument is entered and you want to know what arguments match the input (e.g. 'show pr?'.)

```
Switch#show snmp
Chassis: CAT1552S66E
0 SNMP packets input
  0 Bad SNMP version errors
  0 Unknown community name
  0 Illegal operation for community name supplied
  0 Encoding errors
  0 Number of requested variables
  0 Number of altered variables
  0 Get-request PDUs
  0 Get-next PDUs
  0 Set-request PDUs
  0 Input queue packet drops (Maximum queue size 1000)
0 SNMP packets output
  0 Too big errors (Maximum packet size 1500)
  0 No such name errors
  0 Bad values errors
  0 General errors
  0 Response PDUs
  0 Trap PDUs
SNMP global trap: disabled
SNMP agent enabled
```

* * *

[Final list to be determined after analytic dissection]

5. Help Descriptions

- 32-bit tag value _____
- 48-bit hardware address of ARP entry _____
- AAA group definitions _____
- ARP type ARPA _____
- ASBR summary link states _____

* * *

[Final list to be determined after analytic dissection]